

United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/675,294	09/30/2003	Richard L. Mueller JR.	ACU-127	5446		
OLSON & HII	7590 11/26/2007 ERL LTD	EXAMINER				
36th Floor			STEPHENS, JACQUELINE F			
20 North Wack Chicago, IL 60		ART UNIT	PAPER NUMBER			
.			3761			
			MAIL DATE	DELIVERY MODE		
			11/26/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/675,294	MUELLER, RICHARD L.		
Examiner	Art Unit		
Jacqueline F. Stephens	3761		

•	Jacqueline F. S	lephens	3761	
The MAILING DATE of this communication appe	ars on the cover	sheet with the d	correspondence add	ress
THE REPLY FILED 29 October 2007 FAILS TO PLACE THIS A				
1. The reply was filed after a final rejection, but prior to or on this application, applicant must timely file one of the follow places the application in condition for allowance; (2) a No a Request for Continued Examination (RCE) in compliance time periods:	the same day as ving replies: (1) a tice of Appeal (w	filing a Notice of n amendment, af ith appeal fee) in	Appeal. To avoid aba fidavit, or other evider compliance with 37 C	nce, which FR 41.31; or (3)
a) The period for reply expires 3 months from the mailing date b) The period for reply expires on: (1) the mailing date of this A no event, however, will the statutory period for reply expire le Examiner Note: If box 1 is checked, check either box (a) or of TWO MONTHS OF THE FINAL REJECTION. See MPEP 7	dvisory Action, or (ater than SIX MON' (b). ONLY CHECK 06.07(f).	2) the date set forth THS from the mailin BOX (b) WHEN TH	g date of the final reject E FIRST REPLY WAS F	ion. FILED WITHIN
Extensions of time may be obtained under 37 CFR 1.136(a). The date have been filed is the date for purposes of determining the period of ex under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the set forth in (b) above, if checked. Any reply received by the Office later may reduce any earned patent term adjustment. See 37 CFR 1.704(b) NOTICE OF APPEAL	tension and the cor shortened statutory than three months	responding amount period for reply orig after the mailing da	of the fee. The appropi pinally set in the final Off ate of the final rejection,	iate extension fee ice action; or (2) as even if timely filed,
 The Notice of Appeal was filed on A brief in comp filing the Notice of Appeal (37 CFR 41.37(a)), or any exte a Notice of Appeal has been filed, any reply must be filed AMENDMENTS 	nsion thereof (37	CFR 41.37(e)), to	o avoid dismissal of th	hs of the date of ne appeal. Since
3. The proposed amendment(s) filed after a final rejection, (a) They raise new issues that would require further co (b) They raise the issue of new matter (see NOTE below	nsideration and/o	ate of filing a brief or search (see NO	, will <u>not</u> be entered b TE below);	ecause
(c) They are not deemed to place the application in be appeal; and/or	tter form for appe			the issues for
(d) They present additional claims without canceling a NOTE: (See 37 CFR 1.116 and 41.33(a)).		ımber of finally re	jected claims.	
4. The amendments are not in compliance with 37 CFR 1.1	21. See attached	Notice of Non-Co	ompliant Amendment	(PTOL-324).
5. Applicant's reply has overcome the following rejection(s)				
 Newly proposed or amended claim(s) would be a non-allowable claim(s). 				
7. For purposes of appeal, the proposed amendment(s): a) how the new or amended claims would be rejected is pro The status of the claim(s) is (or will be) as follows:			ill be entered and an	explanation of
Claim(s) allowed:				
Claim(s) objected to:				
Claim(s) rejected: Claim(s) withdrawn from consideration:				•
AFFIDAVIT OR OTHER EVIDENCE				
8. The affidavit or other evidence filed after a final action, but because applicant failed to provide a showing of good an was not earlier presented. See 37 CFR 1.116(e).	it before or on the d sufficient reaso	e date of filing a N ons why the affida	lotice of Appeal will <u>n</u> vit or other evidence i	ot be entered s necessary and
9. The affidavit or other evidence filed after the date of filing entered because the affidavit or other evidence failed to showing a good and sufficient reasons why it is necessar	overcome <u>all</u> reje y and was not ea	ctions under appe rlier presented. S	eal and/or appellant fa See 37 CFR 41.33(d)(ils to provide a 1).
10. The affidavit or other evidence is entered. An explanation REQUEST FOR RECONSIDERATION/OTHER				
11. ☐ The request for reconsideration has been consideration because:	ered but does No	OT place the appl	ication in condition fo	r allowance
See Continuation Sheet. 12. ☐ Note the attached Information Disclosure Statement(s).	(PTO/SR/08) Pai	ner No(s)		
13. Other:	(1 10/00/00) Fa	30. 140(3).	_ 00	<4
10. [_] Other			Jacqueline F Step Primary Examiner	hens

Att Unit: 3761

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 10/29/07 have been considered, but are not persuasive. Applicant argues the breast elevating module 15 is not a breast stabilizer that surrounds a through aperture that radially compresses at least a portion of the breast and has an adjustable circumference. Kermode teaches the breast elevator module includes two tabs, which are adjustable (col. 5, lines 1-33); thus the breast elevator module is adjustable. The Examiner maintains that element 15 is a breast stabilizer in that it is capable of stabilizing the breast. In col. 5, lines 17-19, Kermode teaches the breast elevating module serves to lift and support the breast. The tabs are disposed radially around the base of the breast to lift the breast. Some radial compression is necessary in order to lift and support the breast.